

AMENDED IN ASSEMBLY JULY 14, 2008

AMENDED IN ASSEMBLY SEPTEMBER 5, 2007

AMENDED IN SENATE MAY 24, 2007

AMENDED IN SENATE APRIL 30, 2007

AMENDED IN SENATE APRIL 9, 2007

SENATE BILL

No. 974

Introduced by Senator Lowenthal

(Principal coauthor: Assembly Member De La Torre)

(Coauthors: Senators Kehoe, Kuehl, Migden, and Steinberg)

(Coauthors: Assembly Members Carter, DeSaulnier, Eng, *Furutani*, Hancock, Karnette, and Solorio)

February 23, 2007

An act to amend and renumber Section 1760 of, to add a heading to Chapter 1 (commencing with Section 1720) of, and to add Chapter 2 (commencing with Section 1740) to, Part 2 of Division 6 of, the Harbors and Navigation Code, relating to ports.

LEGISLATIVE COUNSEL'S DIGEST

SB 974, as amended, Lowenthal. Ports: congestion relief: air pollution mitigation: regulatory fee.

(1) Existing law regulates the operation of ports and harbors.

This bill would require the Ports of Los Angeles, Long Beach, and Oakland to collect a user fee ~~on~~ *from* the owner of container cargo moving through the Port of Los Angeles, the Port of Long Beach, or the Port of Oakland at a rate of \$30 per twenty-foot equivalent unit (TEU).

The bill would require the Ports of Los Angeles and Long Beach (San Pedro Bay Ports) to transmit $\frac{1}{2}$ of the funds derived from imposition of the fee to the San Pedro Bay Ports Congestion Relief Trust Fund and $\frac{1}{2}$ to the San Pedro Bay Ports Mitigation Relief Trust Fund, which funds the San Pedro Bay Ports would be required to establish. The bill would require the Port of Oakland to transmit $\frac{1}{2}$ of the funds derived from imposition of the fee to the Port of Oakland Congestion Relief Trust Fund and $\frac{1}{2}$ to the Port of Oakland Mitigation Relief Trust Fund, which funds the Port of Oakland would be required to establish *Port Revenue Fund established pursuant to the City of Oakland City Charter*.

The bill would require the moneys transmitted to the San Pedro Bay Ports Congestion Relief Trust Fund and the Port of Oakland Congestion Relief Trust Fund to be available for expenditure by the California Transportation Commission exclusively for the purposes of funding projects that improve the flow and efficiency of container cargo to and from those ports, and funding the administrative costs of this program. The bill would prohibit moneys deposited in those funds from being loaned or transferred to, or allocated or appropriated in any other way to, the general fund of specified local entities. The bill would prohibit the commission from using the funds to construct, maintain, or improve highways, with certain exceptions.

The bill would require the moneys transmitted to the San Pedro Bay Ports Mitigation Relief Trust Fund and the Port of Oakland Mitigation Relief Trust Fund to be available for expenditure by the State Air Resources Board to develop a list of projects to mitigate air pollution caused by the movement of container cargo to and from those ports, and for the administration of this program. The bill would prohibit moneys deposited in those funds from being loaned or transferred to, or allocated or appropriated in any other way to, the general fund of specified local entities.

This bill would require the moneys transmitted to the San Pedro Bay Ports Congestion Relief Trust Fund to be available for expenditure by the Southern California Goods Movement Authority exclusively for the purpose of funding projects that improve the flow and efficiency of container cargo to and from the Ports of Los Angeles and Long Beach, and for funding the administrative costs of this program. The bill would prohibit moneys deposited in that fund from being loaned or transferred to the general fund of specified local entities.

The bill would require the moneys transmitted to the San Pedro Bay Ports Mitigation Relief Trust Fund to be available for expenditure by

the South Coast Air Quality Management District to mitigate air pollution caused by the movement of container cargo to and from the Ports of Los Angeles and Long Beach by commercial motor vehicles, oceangoing vessels, and rail, and to fund the administrative costs of the program. The bill would prohibit moneys deposited in that fund from being loaned or transferred to the general fund of specified local entities.

The bill would require the moneys transmitted to the Port of Oakland Port Revenue Fund to be available for expenditure by the Port of Oakland for funding projects that improve the flow and efficiency of container cargo to and from the Port of Oakland, to mitigate environmental air pollution caused by the movement of container cargo to and from the port by commercial motor vehicles, oceangoing vessels, cargo handling equipment, and rail, and to fund the administrative costs of the program. The bill would prohibit moneys deposited in that fund from being loaned or transferred to the general fund of the City of Oakland.

The bill would establish a state-mandated local program by imposing these additional duties upon the ports.

The bill would authorize the San Pedro Bay Ports and the Port of Oakland, through the City of Oakland, to enter into financing agreements with participating parties to finance or refinance San Pedro Bay Ports and Port of Oakland congestion and mitigation relief projects. The San Pedro Bay Ports and the Port of Oakland would be authorized to issue revenue bonds to fund these projects, and user fees *assessed* on container cargo from the San Pedro Bay Ports ~~and Port of Oakland~~ Congestion Relief Trust ~~Funds and Fund~~, the San Pedro Bay Ports ~~and Port of Oakland~~ Mitigation Relief Trust ~~Funds Fund~~, and the Port of Oakland Port Revenue Fund would be used to secure any revenue bonds.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. The heading of Chapter 1 (commencing with Section 1720) is added to Part 2 of Division 6 of the Harbors and Navigation Code, immediately preceding Section 1720, to read:

CHAPTER 1. PORT FACILITY CONSTRUCTION

SEC. 2. Chapter 2 (commencing with Section 1740) is added to Part 2 of Division 6 of the Harbors and Navigation Code, to read:

CHAPTER 2. PORT CONGESTION RELIEF AND PORT MITIGATION
RELIEF

Article 1. General Provisions

1740. The Legislature hereby finds and declares all of the following:

(a) There is a need to mitigate the enormous burden imposed on the highway transportation system serving the Ports of Los Angeles, Long Beach, and Oakland by the overland movement of container cargo shipped to and from those ports.

(b) The operation of the ports and trains, ships, and trucks that move cargo containers to and from the ports cause air pollution that requires mitigation.

(c) The improvement of goods movement infrastructure would benefit the owners of container cargo moving through the ports by allowing the owners of the cargo to move container cargo more efficiently and reliably, and to move more cargo through those ports.

(d) *It is vital to the movement of goods in California, especially in southern California, to resolve the road and rail conflicts of locomotives carrying container cargo and automobile traffic by building grade separations. This infrastructure will reduce air pollution and provide benefits to the owners of container cargo by mitigating rail expansion. Without these grade separations, the rail expansion may not happen, and California could lose valuable goods movement jobs.*

(d)

1 (e) The reduction of goods movement air pollution would benefit
2 the owners of container cargo moving through the ports by ~~meeting~~
3 *contributing to the achievement or maintenance of* federal air
4 quality standards, which will allow for continued federal funding
5 of goods movement infrastructure projects.

6 (f) *The Ports of Los Angeles and Long Beach and the Port of*
7 *Oakland operate in unique communities, environments, and*
8 *markets that require infrastructure improvements and air pollution*
9 *reduction measures tailored to the nature and degree of need in*
10 *each port of each community.*

11 ~~(e)~~

12 (g) Accordingly, it is the intent of the Legislature to alleviate
13 these burdens by imposing a fee on shipping containers processed
14 through those ports and using the funds derived from that fee to
15 do both of the following:

16 (1) Improve the rail system that serves as an alternative to
17 shipping on the highway by commercial vehicle, including, but
18 not limited to, the ondock rail facilities at those ports.

19 (2) Mitigate the air pollution resulting from port operations
20 moving container cargo.

21 1741. (a) There is hereby established the Southern California
22 Goods Movement Authority. The authority shall be composed of
23 one representative from each of the following:

24 (1) The Port of Los Angeles, appointed by the Los Angeles
25 Board of Harbor Commissioners.

26 (2) The Port of Long Beach, appointed by the Long Beach Board
27 of Harbor Commissioners.

28 (3) The City of Los Angeles, appointed by the Mayor of Los
29 Angeles.

30 (4) The City of Long Beach, appointed by the Mayor of Long
31 Beach.

32 (5) *The City of Anaheim, appointed by the Mayor of Anaheim.*

33 (6) *The City of Riverside, appointed by the Mayor of Riverside.*

34 (7) *The City of San Bernardino, appointed by the Mayor of San*
35 *Bernardino.*

36 ~~(5)~~

37 (8) The Los Angeles County Metropolitan Transportation
38 Authority, appointed by the board of directors of the Los Angeles
39 County Metropolitan Transportation Authority.

40 ~~(6)~~

(9) The Orange County Transportation Authority, appointed by the board of directors of the Orange County Transportation Authority.

~~(7)~~

(10) The Riverside County Transportation Commission.

~~(8)~~

(11) The San Bernardino Associated Governments.

~~(9)~~

(12) The Alameda Corridor East Construction Authority.

(b) The authority shall be organized solely for the purpose of establishing a priority list of projects pursuant to Section 1750. Each representative shall have one vote when determining the list of projects. When deciding on a list of projects, the authority shall have at least a majority of its members supporting the list that is transmitted to the California Transportation Commission.

(c) For organization and meeting purposes, the Alameda Corridor Transportation Authority shall provide staff and meeting space for the authority and shall be reimbursed for these administrative expenses pursuant to Sections 1745 and 1746. All public meeting laws that apply to the City of Long Beach and the City of Los Angeles shall apply to the authority.

1743. For purposes of this chapter, the following definitions apply:

(a) “Authority” means the Southern California Goods Movement Authority.

(b) “Board” means the State Air Resources Board.

(c) “Commission” means the California Transportation Commission.

(d) “District” means the *Executive Officer of the* Bay Area Air Quality Management District or the South Coast Air Quality Management District, as appropriate.

(e) “MTC” means the *Executive Director of the* Metropolitan Transportation Commission.

(f) “Port” means the Port of Los Angeles, the Port of Long Beach, or the Port of Oakland, otherwise known as the City of Oakland acting by and through its Board of Port Commissioners, as appropriate.

~~(g) “Port of Oakland Congestion Fund” means the Port of Oakland Congestion Relief Trust Fund.~~

1 ~~(h) “Port of Oakland congestion relief container fee revenue”~~
2 ~~means income and receipts derived by that port from Port of~~
3 ~~Oakland congestion relief container fees.~~

4 ~~(i) “Port of Oakland Congestion Relief Container Fee Revenue~~
5 ~~Bonds” means revenue bonds issued pursuant to the City of~~
6 ~~Oakland City Charter that are payable from Port of Oakland~~
7 ~~congestion relief container fee revenue.~~

8 ~~(j) “Port of Oakland congestion relief container fees” means all~~
9 ~~user fees that are imposed pursuant to Section 1747 and remitted~~
10 ~~to the Port of Oakland Congestion Fund.~~

11 ~~(g) “Port Revenue Fund” means the fund created and~~
12 ~~designated pursuant to the City of Oakland City Charter for deposit~~
13 ~~of City of Oakland container cargo fee revenue.~~

14 ~~(h) “Port of Oakland container cargo fee revenue” means~~
15 ~~income and receipts derived by that port from Port of Oakland~~
16 ~~container cargo fees.~~

17 ~~(i) “Port of Oakland container cargo fee revenue bonds” means~~
18 ~~revenue bonds issued pursuant to the City of Oakland City Charter~~
19 ~~that are payable from Port of Oakland container cargo fee revenue.~~

20 ~~(j) “Port of Oakland container cargo fees” means all user fees~~
21 ~~that are imposed pursuant to Section 1747.~~

22 ~~(k) “Port of Oakland congestion relief project” means each~~
23 ~~project for public development facilities and economic facilities~~
24 ~~for which the expenditure of funds has been approved by the~~
25 ~~commission pursuant to Section 1751.~~

26 ~~(l) “Port of Oakland Mitigation Fund” means the Port of Oakland~~
27 ~~Mitigation Relief Trust Fund.~~

28 ~~(m) “Port of Oakland mitigation relief container fee revenue”~~
29 ~~means income and receipts derived by the port from Port of~~
30 ~~Oakland mitigation relief container fees.~~

31 ~~(n) “Port of Oakland Mitigation Relief Container Fee Revenue~~
32 ~~Bonds” means revenue bonds issued pursuant to the City of~~
33 ~~Oakland City Charter that are payable from Port of Oakland~~
34 ~~mitigation relief container fee revenue.~~

35 ~~(o) “Port of Oakland mitigation relief container fees” means all~~
36 ~~user fees that are imposed pursuant to Section 1747 and remitted~~
37 ~~to the Port of Oakland Mitigation Fund.~~

38 ~~(p)~~
39 ~~(l) “Port of Oakland mitigation relief project” means each project~~
40 ~~for public development facilities and economic development~~

1 facilities for which the expenditure of funds has been approved by
2 the State Air Resources Board pursuant to Section 1753.

3 (m) *“Port of Oakland stakeholder group” means representatives*
4 *of the community, port tenants, port users and operators, port*
5 *customers, environmental and environmental justice groups, and*
6 *neighborhoods designated by the Port of Oakland commissioners*
7 *to advise and provide input to the Port of Oakland commissioners*
8 *relating to projects to be funded with Port of Oakland container*
9 *cargo fee revenues.*

10 ~~(q)~~
11 (n) *“San Pedro Bay Ports” means the Ports of Los Angeles and*
12 *Long Beach.*

13 ~~(r)~~
14 (o) *“San Pedro Bay Ports Congestion Fund” means the San*
15 *Pedro Bay Ports Congestion Relief Trust Fund.*

16 ~~(s)~~
17 (p) *“San Pedro Bay Ports congestion relief container fee*
18 *revenue” means income and receipts derived by the San Pedro*
19 *Bay Ports from San Pedro Bay Ports congestion relief container*
20 *fees.*

21 ~~(t)~~
22 (q) *“San Pedro Bay Ports Congestion Relief Container Fee*
23 *Revenue Bonds” means revenue bonds issued by the San Pedro*
24 *Bay Ports that are payable from San Pedro Bay Ports congestion*
25 *relief container fee revenue.*

26 ~~(u)~~
27 (r) *“San Pedro Bay Ports congestion relief container fees” means*
28 *all user fees that are imposed pursuant to Sections 1745 and 1746*
29 *and remitted to the San Pedro Bay Ports Congestion Fund.*

30 ~~(v)~~
31 (s) *“San Pedro Bay Ports congestion relief project” means each*
32 *project for public development facilities and economic*
33 *development facilities for which the expenditure of funds has been*
34 *approved by the authority pursuant to Section 1750.*

35 ~~(w)~~
36 (t) *“San Pedro Bay Ports Mitigation Fund” means the San Pedro*
37 *Bay Ports Mitigation Relief Trust Fund.*

38 ~~(x)~~

1 (u) “San Pedro Bay Ports mitigation relief container fee revenue”
2 means income and receipts derived by the San Pedro Bay Ports
3 from San Pedro Bay Ports mitigation relief container fees.

4 (~~y~~)

5 (v) “San Pedro Bay Ports Mitigation Relief Container Fee
6 Revenue Bonds” means revenue bonds issued by the San Pedro
7 Bay Ports that are payable from San Pedro Bay Ports mitigation
8 relief container fee revenue.

9 (~~z~~)

10 (w) “San Pedro Bay Ports mitigation relief container fees” means
11 all user fees that are imposed pursuant to Sections 1745 and 1746
12 and remitted to the San Pedro Bay Ports Mitigation Fund.

13 (~~aa~~)

14 (x) “San Pedro Bay Ports mitigation relief project” means each
15 project for public development facilities and economic
16 development facilities for which the expenditure of funds has been
17 approved by the South Coast Air Quality Management District
18 pursuant to Section 1752.

19 (y) *For purposes of subdivision (c) of Sections 1745, 1746, and*
20 *1747, “container cargo” means a loaded container.*

21 1744. The provisions of this chapter are severable. If any
22 provision of this chapter or its application is held invalid, that
23 invalidity shall not affect other provisions or applications that can
24 be given effect without the invalid provision or application.

25
26 Article 2. User Fee
27

28 1745. (a) Beginning January 1, ~~2008~~ 2009, the Port of Los
29 Angeles shall develop a process for notifying the owner of, and
30 collecting a user fee from the owner of, container cargo moving
31 through the port.

32 (b) No later than ~~June 1, 2008~~ March 1, 2009, the port shall
33 notify the owner of cargo moving through the port that it will be
34 assessed a user fee not to exceed thirty dollars (\$30) per 20-foot
35 equivalent unit (TEU). The notice shall include, but not be limited
36 to, the process for payment of the user fee, the frequency for
37 payment of the user fee, and that the user fee is being assessed to
38 improve the goods movement infrastructure serving the port, to
39 reduce air pollution from all forms of equipment, vehicles,

1 locomotives, and ships that operate at the port and bring containers
2 to and from the port.

3 (c) ~~Beginning January~~ *July 1, 2009*, the port shall assess a user
4 fee on the owner of container cargo moving through the port not
5 to exceed thirty dollars (\$30) per TEU. The port shall collect the
6 fee at least twice a year.

7 (1) The San Pedro Bay Ports shall establish and maintain a
8 special purpose trust fund named the San Pedro Bay Ports
9 Congestion Relief Trust Fund. The port shall remit one-half of the
10 user fee to the San Pedro Bay Ports Congestion Fund. Moneys
11 deposited in that fund shall be available for expenditure by the
12 authority exclusively for the purposes of funding projects that
13 improve the flow and efficiency of container cargo to and from
14 the Port of Los Angeles, and to fund the administrative costs of
15 this program. Moneys deposited in that fund shall not be loaned
16 or transferred to the general fund of the Port or City of Los Angeles
17 or the Port or City of Long Beach.

18 (2) The San Pedro Bay Ports shall establish and maintain a
19 special purpose trust fund named the San Pedro Bay Ports
20 Mitigation Relief Trust Fund. The port shall remit one-half of the
21 user fee to the San Pedro Bay Ports ~~Mitigation Relief Trust~~
22 Mitigation Fund. Moneys deposited in that fund shall be available
23 for expenditure by the South Coast Air Quality Management
24 District to mitigate air pollution caused by the movement of
25 container cargo to and from the Port of Los Angeles by commercial
26 motor vehicles, oceangoing vessels, and rail, and to fund the
27 administrative costs of this program. Moneys deposited in that
28 fund shall not be loaned or transferred to the general fund of the
29 Port or City of Los Angeles or the Port or City of Long Beach.

30 (d) The port may contract with PierPass for the collection of
31 the user fee authorized pursuant to this section.

32 (e) *The fee authorized pursuant to this section shall be separate*
33 *from, and in addition to, any fee established by the Port of Los*
34 *Angeles for any purpose.*

35 1746. (a) ~~Beginning January 1, 2008~~ *2009*, the Port of Long
36 Beach shall develop a process for notifying the owner of, and
37 collecting a user fee from the owner of, container cargo moving
38 through the port.

39 (b) ~~No later than June 1, 2008~~ *March 1, 2009*, the port shall
40 notify the owner of cargo moving through the port that it will be

1 assessed a user fee not to exceed thirty dollars (\$30) per 20-foot
2 equivalent unit (TEU). The notice shall include, but not be limited
3 to, the process for payment of the user fee, the frequency for
4 payment of the user fee, and that the user fee is being assessed to
5 improve the goods movement infrastructure serving the port, to
6 reduce air pollution from all forms of equipment, vehicles,
7 locomotives, and ships that operate at the port and bring containers
8 to and from the port.

9 (c) ~~Beginning January~~ *July* 1, 2009, the port shall assess a user
10 fee on the owner of container cargo moving through the port not
11 to exceed thirty dollars (\$30) per TEU. The port shall collect the
12 fee at least twice a year.

13 (1) The San Pedro Bay Ports shall establish and maintain a
14 special purpose trust fund named the San Pedro Bay Ports
15 Congestion Relief Trust Fund. The port shall remit one-half of the
16 user fee to the San Pedro Bay Ports Congestion Fund. Moneys
17 deposited in that fund shall be available for expenditure by the
18 authority exclusively for the purposes of funding projects that
19 improve the flow and efficiency of container cargo to and from
20 the Port of Long Beach, and to fund the administrative costs of
21 this program. Moneys deposited in that fund shall not be loaned
22 or transferred to the general fund of the Port or City of Los Angeles
23 or the Port or City of Long Beach.

24 ~~(1)~~

25 (2) The San Pedro Bay Ports shall establish and maintain a
26 special purpose trust fund named the San Pedro Bay Ports
27 ~~Congestion~~ *Mitigation* Relief Trust Fund. The port shall remit
28 one-half of the user fee to the San Pedro Bay Ports Mitigation
29 Fund. Moneys deposited in that fund shall be available for
30 expenditure by the South Coast Air Quality Management District
31 to mitigate air pollution caused by the movement of container
32 cargo to and from the Port of Long Beach by commercial motor
33 vehicles, oceangoing vessels, and rail, and to fund the
34 administrative costs of this program. Moneys deposited in that
35 fund shall not be loaned or transferred to the general fund of the
36 Port or City of Los Angeles or the Port or City of Long Beach.

37 (d) The port may contract with PierPass for the collection of
38 the user fee authorized pursuant to this section.

1 (e) *The fee authorized pursuant to this section shall be separate*
2 *from, and in addition to, any fee established by the Port of Long*
3 *Beach for any purpose.*

4 1747. (a) Beginning January 1, ~~2008~~ 2009, the Port of Oakland
5 shall develop a process for notifying the owner of, and collecting
6 a user fee from the owner of, container cargo moving through the
7 port.

8 (b) No later than ~~June 1, 2008~~ March 1, 2009, the port shall
9 notify the owner of container cargo moving through the port that
10 it will be assessed a user fee not to exceed thirty dollars (\$30) per
11 20-foot equivalent unit (TEU) *or the amount identified pursuant*
12 *to subdivision (d).* The notice shall include, but not be limited to,
13 the process for payment of the user fee, the frequency for payment
14 of the user fee, and that the user fee is being assessed to improve
15 the goods movement infrastructure serving the port, to reduce air
16 pollution from all forms of equipment, vehicles, locomotives, and
17 ships that operate at the port and bring containers to and from the
18 port.

19 (c) Beginning ~~January~~ July 1, 2009, the port shall assess a user
20 fee on the owner of container cargo moving through the port not
21 to exceed thirty dollars (\$30) per TEU *or the amount identified*
22 *pursuant to subdivision (d).* The port shall collect the fee at least
23 twice a year.

24 ~~(1) The port shall establish and maintain a special purpose trust~~
25 ~~fund named the Port of Oakland Congestion Relief Trust Fund and~~
26 ~~remit one-half of the user fee to the Port of Oakland Congestion~~
27 ~~Fund. Moneys deposited in that fund shall be available for~~
28 ~~expenditure by the commission exclusively for the purposes of~~
29 ~~funding projects that improve the flow and efficiency of container~~
30 ~~cargo to and from the Port of Oakland and to fund the~~
31 ~~administrative costs of this program. Moneys deposited in that~~
32 ~~fund shall not be loaned or transferred to the general fund of the~~
33 ~~Port or City of Oakland.~~

34 ~~(2) The port shall establish and maintain a special purpose trust~~
35 ~~fund named the Port of Oakland Mitigation Relief Trust Fund and~~
36 ~~remit one-half of the user fee to the Port of Oakland Mitigation~~
37 ~~Fund. Moneys deposited in that fund shall be available for~~
38 ~~expenditure by the board to mitigate air pollution caused by the~~
39 ~~movement of container cargo to and from the port by commercial~~
40 ~~motor vehicles, oceangoing vessels, and rail, and to fund the~~

1 ~~administrative costs of this program. Moneys deposited in that~~
2 ~~fund shall not be loaned or transferred to the general fund of the~~
3 ~~Port or City of Oakland.~~

4 *(1) The port shall account for the user fees collected pursuant*
5 *to this section as the Port of Oakland container cargo fee revenue.*
6 *Container cargo fee revenue shall be deposited in the Port Revenue*
7 *Fund as provided under the City of Oakland City Charter and*
8 *shall not be loaned or transferred to the general fund of the City*
9 *of Oakland. Revenue collected by the Port of Oakland pursuant*
10 *to this section shall only be used for the purposes authorized in*
11 *Sections 1751 and 1753.*

12 *(2) The Port of Oakland container cargo fee revenues shall be*
13 *available for expenditure by the Port of Oakland for purposes of*
14 *funding projects that improve the flow and efficiency of container*
15 *cargo to and from the Port of Oakland, to mitigate environmental*
16 *air pollution caused by the movement of container cargo to and*
17 *from the port by commercial motor vehicles, oceangoing vessels,*
18 *cargo handling equipment, and rail, and to fund the administrative*
19 *costs of this program.*

20 *(3) No less than 50 percent of the aggregate amount of the Port*
21 *of Oakland container cargo fee revenue shall be used to fund Port*
22 *of Oakland mitigation relief projects authorized pursuant to Section*
23 *1753 over the first 10 years that the fee, established pursuant to*
24 *Section 1747, is collected, with at least 100 percent of the fee*
25 *revenue dedicated to Port of Oakland mitigation relief projects*
26 *for the first three years the fee is collected.*

27 *(d) The fee identified in subdivision (a) shall be the amount*
28 *specified by a resolution adopted by the Port of Oakland in 2008,*
29 *if the port adopts a fee on container cargo prior to December 31,*
30 *2008.*

31
32 Article 3. Congestion Relief and Mitigation Relief Projects
33

34 ~~1750. (a) Beginning January 1, 2008, the authority shall~~
35 ~~develop a list of projects that would improve the overall efficiency~~
36 ~~of container cargo movement to and from the Ports of Los Angeles~~
37 ~~and Long Beach by improving the rail system and container~~
38 ~~transportation systems that transport container cargo to and from~~
39 ~~those ports and the ondock rail facilities at those ports. In the~~
40 ~~process for selecting projects, the~~

1750. (a) Beginning January 1, 2009, the authority shall list the projects described in subdivision (g) in priority order. The authority shall prioritize the order of the projects by giving the highest priority to those projects nearest in time to being constructed. In the process for establishing the projects in priority order, the authority shall consult with the commission and the Southern California Association of Governments. The authority shall hold public hearings to seek further input on developing these projects this priority list, including at least one hearing at or near the Port of Los Angeles and the Port of Long Beach. The authority shall compile this list, in priority order, and submit it to the commission no later than April 1, 2008 2009. If the commission rejects the list, the authority shall compile a new list and submit it to the commission.

~~(b) No later than September 1, 2008, the commission, at a public hearing, shall approve a project list submitted by the authority that would improve the overall efficiency of container cargo movement to and from the Ports of Los Angeles and Long Beach by improving the rail system and container transportation systems that transport container cargo to and from those ports and the ondock rail facilities at those ports. This will be the final list, of infrastructure projects~~

(b) No later than September 1, 2009, the commission, at a public hearing, shall approve a priority list submitted by the authority from the projects described in subdivision (g). This will be the final list, of infrastructure projects at the Ports of Los Angeles and Long Beach, eligible to be funded by the user fee authorized pursuant to this chapter. The commission shall not change the list of projects submitted by the authority. The commission may only accept or reject the entire list of projects. If the commission has not approved a list of projects by September 1, 2008 2009, the most recent list of projects submitted to the commission by the authority shall become the final list of projects.

(c) Funds from the San Pedro Bay Ports Congestion Fund shall be used only for projects that improve the movement of container cargo by rail, or for projects that construct, maintain, or improve a road or highway that is part of a road or highway rail grade separation. A rail grade separation does not include a road or highway going above or beneath another road or highway. To qualify, a rail grade separation project shall reduce conflicts

1 between trains carrying container cargo and motor vehicles, or
2 reduce conflicts between trains carrying container cargo and other
3 trains carrying container cargo.

4 (d) In determining ~~which projects to include in the list of projects~~
5 ~~and in what~~ the order of priority, the authority shall give priority
6 to those projects that have been designed to measurably reduce air
7 pollution impacts to local communities, and to assist in achieving
8 and maintaining state and federal air quality standards, while
9 addressing the overall efficiency of container cargo movement.

10 (e) Beginning January 1, 2010, the board shall evaluate the
11 emissions from heavy-duty vehicles, container cargo handling
12 equipment, harbor craft, and locomotives at the Ports of Los
13 Angeles and Long Beach, and shall determine if these ports have
14 reduced emissions from those sources to meet the goals of the
15 board's Emission Reduction Plan for Ports and Goods Movement.
16 No later than July 1, 2010, and no later than January 1, 2015, and
17 January 1, 2020, the board shall notify the commission as to
18 whether or not the Ports of Los Angeles and Long Beach have met
19 these goals. If these goals, as determined by the board, have not
20 been met, the commission shall not award funding to a project,
21 other than for ~~on-dock~~ *ondock* rail and rail and road or highway
22 grade separations, until the board determines that these goals have
23 been met.

24 (f) For all construction projects funded pursuant to this section,
25 a contractor shall ensure that all mobile nonroad equipment used
26 on the project will be equipped with a California Air Resources
27 Board (CARB) verified *Level 3 emission control device* diesel
28 particulate filter that obtains at least an 85-percent reduction in
29 emissions, unless any of the following circumstances exists, and
30 the contractor is able to provide proof that any of these
31 circumstances exists:

32 (1) A piece of specialized equipment is unavailable in a
33 controlled form within the state, including through a leasing
34 arrangement.

35 (2) A contractor has applied for incentive funds to put controls
36 on a piece of uncontrolled equipment planned for use on the
37 project, but the application is not yet approved, or the application
38 has been approved, but funds are not yet available.

39 (3) A contractor has ordered a control device for a piece of
40 equipment planned for use on the project, or has ordered a new

1 piece of controlled equipment to replace the uncontrolled
2 equipment, but that order has not been completed by the
3 manufacturer or dealer, and the contractor has attempted to lease
4 controlled equipment, but no dealer within 200 miles of the project
5 has the controlled equipment available for lease.

6 ~~(g) Projects eligible to be considered for the list by the authority~~
7 ~~include, but are not limited to, all of the following:~~

8 ~~(1) A project to separate at-grade crossings to reduce conflicts~~
9 ~~between trains and motor vehicles in Los Angeles, Orange,~~
10 ~~Riverside, and San Bernardino Counties, also known as the~~
11 ~~Alameda Corridor East Project.~~

12 ~~(2) A project to improve rail capacity by adding additional tracks~~
13 ~~to existing rail lines in Los Angeles, Orange, Riverside, and San~~
14 ~~Bernardino Counties, which does not disproportionately impact~~
15 ~~low-income communities.~~

16 ~~(3) A project to separate at-grade rail crossings in San~~
17 ~~Bernardino County, also known as the Colton crossing.~~

18 ~~(4) A project to improve ondock rail infrastructure at the Ports~~
19 ~~of Los Angeles and Long Beach.~~

20 ~~(g) Notwithstanding any other provision of law, grade~~
21 ~~separation projects eligible to be funded from the San Pedro Bay~~
22 ~~Congestion Relief Fund are all of the following:~~

23 ~~(1) Grade separation projects in Los Angeles County: San Pablo~~
24 ~~Street/SP-City of Los Angeles; Vineburn Avenue/SP-City of Los~~
25 ~~Angeles; N. Boca Avenue/SP-City of Los Angeles; San Gabriel~~
26 ~~Trench/SP-City of San Gabriel; Walnut Grove Avenue/SP-County~~
27 ~~of Los Angeles; Encinita Avenue/SP- City of Temple City; Lower~~
28 ~~Asuza Road/SP-City of Temple City; Temple City~~
29 ~~Boulevard/SP-City of El Monte; Baldwin Avenue/SP-City of El~~
30 ~~Monte; Arden Drive/SP-City of El Monte; Tyler Avenue/SP-City~~
31 ~~of El Monte; Cogswell/SP-City of El Monte; Temple~~
32 ~~Avenue/SP-City of Industry; Vineland Avenue/SP-City of Industry;~~
33 ~~Puente Avenue/SP-City of Industry; California Avenue/SP-City of~~
34 ~~El Monte; Fullerton Road/SP-City of Industry; Fairway~~
35 ~~Drive/SP-City of Industry; Lemon Avenue/SP-City of Industry;~~
36 ~~Brea Canyon Road/SP-City of Industry; Park Avenue/SP and~~
37 ~~UP-City of Pomona; Palomares Street/SP and UP-City of Pomona;~~
38 ~~S. Vail Avenue/UP-City of Montebello; S. Maple Avenue/UP-City~~
39 ~~of Montebello; S. Greenwood Avenue/UP-City of Montebello;~~
40 ~~Montebello Boulevard/UP-City of Montebello; Durfee Road/UP-~~

1 *City of Pico Rivera; Rose Hills/UP-City of Industry; Mission Mill*
2 *Road/UP-City of Industry; Workman Mill Road/UP-City of*
3 *Industry; Turnbull Canyon Road/UP-County of Los Angeles;*
4 *Stimson Avenue/UP-City of Industry; Bixby Drive/UP-City of*
5 *Industry; Fullerton Road/UP-City of Industry; Nogales*
6 *Street/UP-City of Industry; Fairway Drive/UP-City of Industry;*
7 *Lemon Avenue/UP-County of Los Angeles; Hamilton Boulevard/SP*
8 *and UP-City of Pomona; Main Street/SP and UP-City of Pomona;*
9 *San Antonio Avenue/SP and UP-City of Pomona; Passons*
10 *Boulevard/BNSF-City of Pico Rivera; Valley View*
11 *Avenue/BNSF-City of Santa Fe Springs; Rosecrans*
12 *Avenue/BNSF-City of Santa Fe Springs; Norwalk*
13 *Boulevard/BNSF-City of Santa Fe Springs/Gateway; and*
14 *Wilmington Street/SP and BNSF-City of Los Angeles.*

15 (2) *Grade separation projects in Orange County: Acacia Avenue*
16 *(Fullerton), Grand Avenue (Santa Ana), State College Boulevard*
17 *(Fullerton), State College Boulevard (Anaheim), Placentia Avenue*
18 *(Placentia and Fullerton), Kraemer Boulevard (Placentia),*
19 *Orangethorpe Avenue (Placentia and Anaheim), Tustin*
20 *Avenue/Rose Drive (Placentia and Anaheim), Jefferson Street*
21 *(Placentia and Anaheim), Van Buren Avenue (Placentia), Richfield*
22 *Road (Placentia), Lakeview Avenue (Placentia and Anaheim),*
23 *Kellogg Drive (Anaheim), Raymond Avenue (Fullerton), San*
24 *Canyon Avenue (Irvine), Red Hill Avenue (Tustin), 17th Street*
25 *(Santa Ana), Santa Ana Boulevard (Santa Ana), and Ball Road*
26 *(Anaheim).*

27 (3) *Grade separation projects in Riverside County: Jurupa*
28 *Road/UP-Riverside County; Magnolia Avenue/UP-City of*
29 *Riverside; Riverside Avenue/UP-City of Riverside; McKinley*
30 *Street/BNSF-City of Corona; Magnolia Avenue/BNSF-Riverside*
31 *County; 3rd Street/BNSF-City of Riverside; Chicago*
32 *Avenue/BNSF-City of Riverside; Columbia Avenue/BNSF-City of*
33 *Riverside; Iowa Avenue/BNSF-City of Riverside; Sunset*
34 *Avenue/UP-City of Banning; Clay Street/UP-Riverside County;*
35 *Jurupa Avenue/UP-City of Riverside, Streeter Avenue/UP-City of*
36 *Riverside; Brockton Avenue/UP-City of Riverside; Auto Center*
37 *Drive/BNSF-City of Corona; Smith Avenue/BNSF-City of Corona;*
38 *Tyler Street/BNSF-City of Riverside; Adams Street/BNSF-City of*
39 *Riverside; Madison Street/BNSF-City of Riverside; Mary*
40 *Street/BNSF-City of Riverside; 7th Street/BNSF-City of Riverside;*

1 *Spruce Street/BNSF-City of Riverside; Palmyrita Avenue/UP-City*
2 *of Riverside; Center Street/BNSF-Riverside County; 22nd*
3 *Street/UP-City of Banning; San Gorgonio Avenue/UP-City of*
4 *Banning; Hargrave Street/UP-City of Banning; Avenue 48/Dillon*
5 *Road/UP-City of Coachella/City of Indio; Bellgrave*
6 *Avenue/UP-Riverside County; Palm Avenue/UP-City of Riverside;*
7 *Panorama Road/UP-City of Riverside; Railroad Street/BNSF-City*
8 *of Corona; Buchanan Street/BNSF-City of Riverside; Pierce*
9 *Street/BNSF-City of Riverside; San Timoteo Canyon Road/UP-City*
10 *of Calimesa; California Avenue/UP-City of Beaumont; Avenue*
11 *52/UP-City of Coachella; Avenue 62/UP-City of Coachella;*
12 *Avenue 66/UP-City of Coachella.*

13 *(4) Grade separation projects in San Bernardino County: Grove*
14 *Avenue on the UP Alhambra Line, Grove Avenue on the UP Los*
15 *Angeles Line, Ramona Avenue on the UP Alhambra and Los*
16 *Angeles Lines, Monte Vista Avenue on the UP Alhambra and Los*
17 *Angeles Lines, State/University on the BNSF Cajon Line, Hunts*
18 *Lane on the UP Yuma Line, Milliken Avenue on the UP Alhambra*
19 *Line, Central Avenue on the UP Alhambra and Los Angeles Lines,*
20 *San Antonio Avenue on the UP Alhambra and Los Angeles Lines,*
21 *Sultana Avenue on the UP Alhambra and Los Angeles Lines,*
22 *Campus Avenue on the UP Alhambra and Los Angeles Lines, State*
23 *Street (Ontario) between the UP Alhambra and Los Angeles Lines,*
24 *Vineyard Avenue on the UP Alhambra Line, Vineyard Avenue on*
25 *the UP Los Angeles Line, Mt. Vernon Avenue on the UP Yuma*
26 *Line, Vine Avenue on the UP Los Angeles Line, Bon View Avenue*
27 *on the UP Los Angeles Line, Archibald Avenue on the UP Los*
28 *Angeles Line, Milliken Avenue on the UP Los Angeles Line, Valley*
29 *Boulevard on the BNSF San Bernardino Line, Laurel Street on*
30 *the BNSF San Bernardino Line, Main Street on the BNSF San*
31 *Bernardino Line, Olive Street on the BNSF San Bernardino Line,*
32 *Palm Avenue on the BNSF Cajon Line, Glen Helen Parkway on*
33 *the BNSF Cajon Line, Ranchero Road on the BNSF Cajon Line,*
34 *Ranchero Road on the UP Cutoff Line, Vista Road on the BNSF*
35 *Cajon Line, Hinkley Road on the BNSF Cajon Line, Lenwood*
36 *Road on the BNSF Cajon Line, Oro Grande on the BNSF Cajon*
37 *Line, Indian Trail on the BNSF Cajon Line, E Street on the BNSF*
38 *San Bernardino Line, H Street on the BNSF San Bernardino Line,*
39 *Phelan Road on the UP Cutoff Line, Johnson Road on the UP*
40 *Cutoff Line, Whittier Avenue on the UP Yuma Line, Beaumont*

1 *Avenue on the UP Yuma Line, Alessandro Road on the UP Yuma*
2 *Line, and San Timoteo Canyon Road on the UP Yuma Line.*

3 (5) *A project to separate the at-grade rail crossings between*
4 *the Union Pacific and the Burlington Northern Santa Fe Railroads*
5 *in San Bernardino County, also known as the Colton crossing.*

6 (6) *A project to improve ondock rail infrastructure at the Port*
7 *of Los Angeles or the Port of Long Beach (Ports Rail Program -*
8 *Phase II).*

9 (7) *A project that would move containers to and from the Port*
10 *of Los Angeles and the Port of Long Beach using electricity,*
11 *magnetic levitation, or other similar zero-emission technology.*

12 (h) In determining which projects to select for the list, the
13 authority shall also take into account the entire rail and trade
14 corridor servicing the Ports of Los Angeles and Long Beach.

15 ~~(i) The commission shall only use the funds received from the~~
16 ~~San Pedro Bay Ports Congestion Fund to fund projects authorized~~
17 ~~pursuant to this section.~~

18 (i) *Once the commission has approved the final list of priority*
19 *projects submitted by the authority, the commission shall transmit*
20 *the approved list to the authority. A project proponent shall submit*
21 *an application to the authority. Once the application has been*
22 *approved using the priority list adopted by the authority and*
23 *approved by the commission, the authority shall notify the Ports*
24 *of Los Angeles and Long Beach, and the Ports of Los Angeles and*
25 *Long Beach shall release funds from the San Pedro Bay Ports*
26 *Congestion Fund to the project applicant accordingly.*

27 (j) A project receiving funding pursuant to this section may also
28 receive funding from other sources, including, but not limited to,
29 local agencies, state sources, federal sources, and private sources.

30 (k) Once the projects on the final list are completed and fully
31 funded, the commission shall notify the Ports of Los Angeles and
32 Long Beach that the infrastructure projects are completed and the
33 ports shall no longer collect the one-half of the user fee for
34 infrastructure projects. The commission may also make a finding
35 that a project on the final list has either been funded by another
36 source or is no longer worthy of funding.

37 (l) Beginning January 1, 2009, and annually thereafter, the Ports
38 of Los Angeles and Long Beach shall report to the commission
39 and the transportation committees of the Senate and Assembly on
40 the status of the San Pedro Bay Ports Clean Air Action Plan.

1 (m) *The commission may approve in advance a project described*
2 *in subdivision (g) for advance construction authority.*

3 (n) *If a project is proposed and is not identical to a project*
4 *described in subdivision (g) but is similar, the authority may*
5 *approve the project if it concludes that the project is similar to*
6 *one listed in subdivision (g).*

7 (o) *The authority may remove a project described in subdivision*
8 *(g) if it determines that the project does not directly relate to the*
9 *movement of container cargo to and from the Port of Los Angeles*
10 *or the Port of Long Beach.*

11 (p) *This section does not prevent a project applicant of a project*
12 *described in subdivision (g) from using funds received pursuant*
13 *to this section as a match to other programs, including, but not*
14 *limited to, the program described in paragraph (1) of subdivision*
15 *(c) of Section 8879.23 of the Government Code.*

16 (q) *Where a project is identified in subdivision (g) and is*
17 *receiving funds, or may be using funds, pursuant to paragraph (1)*
18 *of subdivision (c) of Section 8879.23 of the Government Code, the*
19 *funds from Sections 1745 and 1746 shall be used to supplement,*
20 *but not supplant, the funds from paragraph (1) of subdivision (c)*
21 *of Section 8879.23 of the Government Code.*

22 1751. (a) ~~Beginning January 1, 2008, the MTC 2009, the MTC~~
23 ~~and the Port of Oakland shall jointly develop a list of projects that~~
24 ~~would improve the overall efficiency of container cargo movement~~
25 ~~to and from the Port of Oakland by improving the rail and container~~
26 ~~transportation systems that transport container cargo to and from~~
27 ~~that port and the ondock and near-dock rail facilities at that port.~~
28 ~~In the process for selecting projects, the MTC and the Port of~~
29 ~~Oakland shall consult with the commission, the Port of Oakland,~~
30 ~~the City of Oakland, the Sacramento Area Council of Governments,~~
31 ~~the Placer County Transportation Planning Agency, and the~~
32 ~~Council of Fresno County Governments commission, the Port of~~
33 ~~Oakland stakeholder group, and the Sacramento Area Council of~~
34 ~~Governments.~~ The MTC and the Port of Oakland shall hold public
35 hearings to seek further input on developing these projects,
36 including at least one hearing in the City of Oakland. The MTC
37 and the Port of Oakland shall compile this list, in priority order,
38 and submit it to the commission no later than April 1, 2008 2009.
39 If the commission rejects the list, the MTC and the Port of Oakland
40 shall compile a new list and submit it to the commission.

(b) No later than September 1, ~~2008~~ 2009, the commission, at a public hearing, shall approve a project list submitted *jointly* by the MTC *and the Port of Oakland* that would improve the overall efficiency of container cargo movement to and from the Port of Oakland by improving the rail and container transportation systems that transport container cargo to and from that port and the ondock *and near-dock* rail facilities at that port. This will be the final list; of infrastructure projects at the Port of Oakland; eligible to be funded by the user fee authorized pursuant to this chapter. The commission shall not change the list of projects submitted by the MTC *and the Port of Oakland*. The commission may only accept or reject the entire list of projects. If the commission has not approved a list of projects by September 1, ~~2008~~ 2009, the most recent list of projects submitted to the commission by the MTC *and the Port of Oakland* shall become the final list of projects.

~~(e) Funds from the Port of Oakland Congestion Fund shall be used only for~~

(c) *The final list of Port of Oakland congestion relief projects shall include* projects that improve the movement of container cargo by rail, or for projects that construct, maintain, or improve a road or highway that *is on port property or that* is part of a road or highway rail grade separation. To qualify, a rail grade separation project shall reduce conflicts between trains carrying container cargo *from or to the port* and motor vehicles.

(d) In determining which projects to include in the list of projects and in what order of priority, the MTC *and the Port of Oakland* shall give priority to those projects that have been designed to measurably reduce air pollution impacts to local communities, and to assist in achieving and maintaining state and federal air quality standards, while addressing the overall efficiency of container cargo movement.

(e) Beginning January 1, 2010, the board shall evaluate the emissions from heavy-duty vehicles, container cargo handling equipment, harbor craft, and locomotives at the Port of Oakland, and shall determine if the port has reduced emissions from those sources to meet the goals of the board's Emission Reduction Plan for Ports and Goods Movement. No later than July 1, 2010, and on no later than January 1, 2015, and January 1, 2020, the board shall notify the commission as to whether or not the port has met these goals. If these goals, as determined by the board, have not

1 been met, the commission shall not ~~award funding to a project,~~
2 ~~approve projects,~~ other than for ~~on-dock~~ *ondock or near-dock* rail,
3 rail improvements on port property, and rail and road or highway
4 grade separations, until the board determines that these goals have
5 been met.

6 *(f) Beginning July 1, 2011, and every two years thereafter, the*
7 *MTC and the Port of Oakland, in consultation with the Port of*
8 *Oakland stakeholder group, may evaluate the list of Port of*
9 *Oakland congestion relief projects and may revise that list, taking*
10 *into consideration whether the projects are legally, technologically,*
11 *and economically feasible, and whether circumstances have*
12 *changed to affect the feasibility or priority of, or need for, the*
13 *projects. The MTC and the Port of Oakland shall approve the*
14 *revised list only if there are any revisions at a public meeting and*
15 *submit the revised list to the commission. No later than 90 days*
16 *after the initial submission by the MTC and the Port of Oakland*
17 *of the revised list, the commission, at a public hearing, shall*
18 *approve the revised project list submitted by the MTC and the Port*
19 *of Oakland. The commission shall not change the revised list of*
20 *projects submitted by the MTC and the Port of Oakland. The*
21 *commission may only accept or reject the entire list of projects. If*
22 *the commission has not approved a revised list of projects by 90*
23 *days after the initial submission by the MTC and the Port of*
24 *Oakland, the most recent revised list of projects submitted to the*
25 *commission by the MTC and the Port of Oakland shall become*
26 *the final list of projects.*

27 ~~(f)~~

28 *(g) For all construction projects funded pursuant to this section,*
29 *a contractor shall ensure that all mobile nonroad equipment used*
30 *on the project will be equipped with a California Air Resources*
31 *Board (CARB) verified Level 3 emission control device diesel*
32 *particulate filter that obtains at least an 85 percent reduction in*
33 *emissions, unless any of the following circumstances exists, and*
34 *the contractor is able to provide proof that any of these*
35 *circumstances exists:*

36 *(1) A piece of specialized equipment is unavailable in a*
37 *controlled form within the state, including through a leasing*
38 *arrangement.*

39 *(2) A contractor has applied for incentive funds to put controls*
40 *on a piece of uncontrolled equipment planned for use on the*

1 project, but the application is not yet approved, or the application
2 has been approved, but funds are not yet available.

3 (3) A contractor has ordered a control device for a piece of
4 equipment planned for use on the project, or has ordered a new
5 piece of controlled equipment to replace the uncontrolled
6 equipment, but that order has not been completed by the
7 manufacturer or dealer, and the contractor has attempted to lease
8 controlled equipment, but no dealer within 200 miles of the project
9 has the controlled equipment available for lease.

10 (4) *The equipment is compliant with requirements set forth in*
11 *the board's regulation for In-Use Off-Road Diesel Vehicles*
12 *(Sections 2449, 2449.1, 2449.2, and 2449.3 of Title 13 of the*
13 *California Code of Regulations).*

14 ~~(g)~~

15 (h) Projects eligible to be considered by the MTC *and the Port*
16 *of Oakland* include, but are not limited to, projects to separate
17 at-grade crossings to reduce conflicts between trains carrying
18 container cargo and motor vehicles or increase mainline rail
19 capacity for moving cargo containers, and ~~on-dock~~ *ondock* and
20 near-dock rail improvements at the Port of Oakland.

21 ~~(h)~~

22 (i) In determining which projects to select, the MTC *and the*
23 *Port of Oakland* shall also take into account the entire rail and
24 trade corridor across northern and central California servicing the
25 Port of Oakland.

26 ~~(i) The commission shall only use the funds received from the~~
27 ~~Port of Oakland Congestion Fund to fund projects authorized~~
28 ~~pursuant to this section.~~

29 (j) *The Port of Oakland shall use the Port of Oakland container*
30 *cargo fee revenues to fund only projects authorized pursuant to*
31 *this section and Section 1753.*

32 ~~(j)~~

33 (k) A project receiving funding pursuant to this section may
34 also receive funding from other sources, including, but not limited
35 to, local agencies, state sources, federal sources, and private
36 sources.

37 ~~(k)~~

38 (l) Once the projects on the final list are completed and fully
39 funded, ~~the commission shall notify the Port of Oakland,~~ *Oakland*
40 *shall make a finding that the infrastructure projects are completed,*

1 *to the extent feasible*, and the port shall no longer collect the
2 one-half of the user fee for infrastructure projects. The commission
3 may also make a finding that a project on the final list has either
4 been funded by another source or is no longer worthy of funding.

5 ~~(t)~~

6 (m) Beginning January 1, 2009, and annually thereafter, the
7 Port of Oakland shall report to the commission and the
8 transportation committees of the Senate and Assembly on the status
9 of the port's ~~clean air action plan~~. *maritime air quality improvement*
10 *plan*.

11 (n) *When developing the list of projects pursuant to subdivision*
12 *(a), the MTC and the Port of Oakland shall ensure that any projects*
13 *selected are not inconsistent with the City Charter of the City of*
14 *Oakland*.

15 (o) *The commission may approve, in advance, a project selected*
16 *pursuant to subdivision (a) for advance construction authority*.

17 (p) *This section does not prevent a project applicant of a project*
18 *selected pursuant to subdivision (a) from using funds received*
19 *pursuant to this section as a match to other programs, including,*
20 *but not limited to, the program described in paragraph (1) of*
21 *subdivision (c) of Section 8879.23 of the Government Code*.

22 (q) *Where a project is selected pursuant to subdivision (a) and*
23 *is receiving funds, or may be using funds, pursuant to paragraph*
24 *(1) of subdivision (c) of Section 8879.23 of the Government Code,*
25 *the funds from Section 1747 shall be used to supplement, but not*
26 *supplant, the funds from paragraph (1) of subdivision (c) of Section*
27 *8879.23 of the Government Code*.

28 1752. (a) Beginning January 1, ~~2008~~ 2009, the South Coast
29 Air Quality Management District (district) *and the Ports of Los*
30 *Angeles and Long Beach* shall jointly develop a list of projects that
31 reduce air pollution caused by the movement of container cargo
32 to and from the Ports of Los Angeles and Long Beach. The projects
33 on the list shall be consistent with the Emission Reduction Plan
34 (ERP) adopted April 2006, and shall be designed to reduce air
35 pollution at those ports in order to achieve and maintain state and
36 federal air quality standards and to meet the ERP's goals for 2010,
37 2015, and 2020, as well as the goals for the Air Quality
38 Management Plan prepared by the South Coast Air Quality
39 Management District, and the San Pedro Bay Clean Air Action
40 Plan. In developing the list, the district *and the Ports of Los Angeles*

1 *and Long Beach shall jointly consult with the board; and the*
2 *Gateway Council of Governments; and the Ports of Los Angeles*
3 *and Long Beach. The district shall* ~~*district and the Ports of Los*~~
4 *Angeles and Long Beach shall jointly hold public hearings before*
5 *developing the list of projects, including at least one hearing being*
6 *held at or near the Ports of Los Angeles and Long Beach. The*
7 *district and the Ports of Los Angeles and Long Beach shall jointly*
8 *compile this list, in priority order, and submit it the board no later*
9 *than April 1, 2008: 2009. When compiling the project list, the*
10 *district and the Ports of Los Angeles and Long Beach shall give*
11 *the highest priority for the list and for funding for the projects*
12 *described in paragraph (1) of subdivision (c) of Section 1752.*

13 (b) *The district and the Ports of Los Angeles and Long Beach*
14 *shall jointly work with the Port of Los Angeles and the Port of*
15 *Long Beach to ensure that projects within the Air Quality*
16 *Management Plan prepared by the district and within the San Pedro*
17 *Bay Clean Air Action Plan are completed or implemented.*

18 (c) *Projects, in the form of grants, revolving loans, loan*
19 *guarantees, loans, or other funding measures, eligible to be*
20 *considered by the district and the Ports of Los Angeles and Long*
21 *Beach include, but are not limited to, the following:*

22 (1) *The replacement, repowering, or retrofitting of heavy-duty*
23 *diesel vehicles that move cargo containers to and from the Port of*
24 *Los Angeles or the Port of Long Beach, not otherwise required by*
25 *any federal or state law or regulation.*

26 (2) *The replacement, repowering, or retrofitting of locomotive*
27 *engines that move cargo containers to and from the Port of Los*
28 *Angeles or the Port of Long Beach, not otherwise required by any*
29 *federal or state law or regulation.*

30 (3) *Funding through grants of the incremental cost of using a*
31 *low-sulfur fuel, not otherwise required by statute or regulation, on*
32 *oceangoing vessels that carry cargo containers to and from the*
33 *Port of Los Angeles or the Port of Long Beach.*

34 (4) *The provision of mobile or portable-shore-side* ~~*shoreside*~~
35 *distributed power generation to oceangoing cargo container vessels*
36 *that eliminates the need to use the electricity grid at the Port of*
37 *Los Angeles or the Port of Long Beach, and that has been tested*
38 *and verified by the board or a local air quality management district.*

1 (5) The electrification of the rail infrastructure used to move
2 cargo containers to and from the Port of Los Angeles or the Port
3 of Long Beach.

4 (6) The provision of ~~shore-side~~ *shoreside* electrical power
5 generation to oceangoing cargo container vessels, moving cargo
6 containers to and from the Port of Los Angeles or the Port of Long
7 Beach, not otherwise required by any federal or state law or
8 regulation.

9 (7) Container cargo-handling equipment, handling cargo
10 containers at the Port of Los Angeles or the Port of Long Beach,
11 not otherwise required by any federal or state law or regulation.

12 (d) No later than September 1, ~~2008~~ 2009, the board, at a public
13 hearing, shall accept a list of projects from the district *and the*
14 *Ports of Los Angeles and Long Beach* that meets the ERP's goals
15 for 2010, 2015, and 2020, in order to meet or maintain federal air
16 quality attainment standards. If the board has not approved a list
17 of projects by September 1, ~~2008~~ 2009, the most recent list of
18 projects submitted to the board by the district shall become the
19 final list of projects.

20 (e) The board may determine, at a public hearing, that the
21 emission reduction goals for 2020 have been met or exceeded and
22 that projects that reduce emissions from the movement of cargo
23 containers to and from the Port of Los Angeles that are designed
24 to achieve federal air quality standards have been implemented,
25 including full implementation of projects that reduce emissions
26 from the movement of cargo containers to and from the Port of
27 Los Angeles contained within the Air Quality Management Plan
28 prepared by the district. Once the determination is made, and
29 ensuring that all approved projects have been funded, the board
30 shall notify the Port of Los Angeles of this determination, and the
31 Port of Los Angeles shall no longer collect the one-half of the user
32 fee for air quality projects meant to reach these goals and federal
33 air quality attainment standards.

34 (f) The board may determine, at a public hearing, that the
35 emission reduction goals for 2020 have been met or exceeded and
36 that projects that reduce emissions from the movement of cargo
37 containers to and from the Port of Long Beach that are designed
38 to achieve federal air quality standards have been implemented,
39 including full implementation of projects that reduce emissions
40 from the movement of cargo containers to and from the Port of

1 Long Beach contained within the Air Quality Management Plan
2 prepared by the district. Once the determination is made, and
3 ensuring that all approved projects have been funded, the board
4 shall notify the Port of Long Beach of this determination, and the
5 Port of Long Beach shall no longer collect the one-half of the user
6 fee for air quality projects meant to reach these goals and federal
7 air quality attainment standards.

8 ~~(g) The board shall only use the funds received from the San~~
9 ~~Pedro Bay Ports Mitigation Fund to fund projects authorized~~
10 ~~pursuant to this section.~~

11 *(g) Once the board has approved the final list of priority projects*
12 *submitted by the district and the Ports of Los Angeles and Long*
13 *Beach, the board may begin approving applications for funding,*
14 *in the form of grants, revolving loans, loan guarantees, loans, or*
15 *other funding measures. A project proponent shall submit an*
16 *application to the board. Once the application has been approved*
17 *using the priority list adopted by the district and the Ports of Los*
18 *Angeles and Long Beach and approved by the board, the board*
19 *shall notify the Ports of Los Angeles and Long Beach and the Ports*
20 *of Los Angeles and Long Beach shall release the funds from the*
21 *San Pedro Bay Ports Mitigation Fund to the project applicant*
22 *accordingly.*

23 (h) A project receiving funding pursuant to this section may
24 also receive funding from other sources, including, but not limited
25 to, local agencies, state sources, federal sources, and private
26 sources.

27 1753. (a) Beginning January 1, ~~2008~~ 2009, the Bay Area Air
28 Quality Management District (district) *and the Port of Oakland*
29 *shall jointly* develop a list of projects that reduce air pollution
30 caused by the movement of container cargo to and from the Port
31 of Oakland. The projects on the list shall be consistent with the
32 Emission Reduction Plan (ERP) adopted April 2006, and shall be
33 designed to reduce air pollution at the port in order to achieve and
34 maintain state and federal air quality standards and to meet the
35 ERP's goals for 2010, 2015, and 2020. In developing the list, the
36 district *and the Port of Oakland* shall jointly consult with the board,
37 ~~the Sacramento Metropolitan Air Quality Management District,~~
38 ~~the San Joaquin Air Pollution Control District, and the Port of~~
39 ~~Oakland~~ board *and the Port of Oakland stakeholder group.* The
40 district *and the Port of Oakland* shall jointly compile this list, in

1 priority order, and submit it to the board no later than April 1, 2008
2 2009. If the board rejects the list, the district *and the Port of*
3 *Oakland* shall jointly compile a new list and submit it to the board.

4 ~~(b) In consultation with the port, the district shall develop a plan~~
5 ~~to reduce emissions from the Port of Oakland and submit the plan~~
6 ~~to the board. The board and the district shall work with the port to~~
7 ~~ensure that projects within the plan are completed or implemented~~
8 ~~to the maximum extent feasible. The board may provide funding~~
9 ~~to the district or the port in order to achieve the goals of the plan.~~

10 (e)

11 (b) Projects, *in the form of grants, revolving loans, loan*
12 *guarantees, loans, or other funding measures*, eligible to be
13 considered by the district *and the Port of Oakland* include, but are
14 not limited to, the following:

15 (1) The replacement, repowering, or retrofitting of heavy-duty
16 diesel vehicles that move cargo containers to and from the Port of
17 Oakland, not otherwise required by any federal or state law or
18 regulation.

19 (2) The replacement, repowering, or retrofitting of locomotive
20 engines that move cargo containers to and from the Port of
21 Oakland, not otherwise required by any federal or state law or
22 regulation.

23 (3) Funding through grants of the incremental cost of using a
24 low-sulfur fuel, not otherwise required by statute or regulation, on
25 ~~ocean-going~~ *oceangoing* vessels that carry cargo containers to and
26 from the Port of Oakland.

27 (4) The provision of mobile or portable ~~shore-side~~ *shoreside*
28 distributed power generation to ~~ocean-going~~ *oceangoing* cargo
29 container vessels that eliminates the need to use the electricity grid
30 at the Port of Oakland, and that has been tested and verified by the
31 board or a local air quality management district.

32 (5) The electrification of infrastructure used within a marine
33 terminal that handles cargo containers in the Port of Oakland.

34 (6) The provision of ~~shore-side~~ *shoreside* electrical power
35 generation to ~~ocean-going~~ *oceangoing* cargo container vessels,
36 moving cargo containers to and from the Port of Oakland, not
37 otherwise required by any federal or state law or regulation.

38 (7) Container cargo-handling equipment, handling cargo
39 containers at the Port of Oakland, not otherwise required by any
40 federal or state law or regulation.

1 ~~(d)~~

2 (c) No later than September 1, ~~2008~~ 2009, the board, at a public
3 hearing, shall approve a list of projects that meet the ERP's goals
4 for 2010, 2015, and 2020 that are consistent with the plan
5 developed pursuant to subdivision (c), to meet or maintain federal
6 air quality standards. If the board has not approved a list of projects
7 by September 1, ~~2008~~ 2009, the most recent list of projects
8 submitted to the board by the district shall become the final list of
9 projects.

10 (d) *Beginning July 1, 2011, and every two years thereafter, the*
11 *district and the Port of Oakland, in consultation with the Port of*
12 *Oakland stakeholder group, may evaluate the list of Port of*
13 *Oakland mitigation relief projects and may revise that list, taking*
14 *into consideration whether the projects are legally, technologically,*
15 *and economically feasible, and whether circumstances have*
16 *changed to affect the feasibility or priority of, or need for, the*
17 *projects. The district and the Port of Oakland shall approve the*
18 *revised list only if there are any revisions at a public meeting and*
19 *submit the revised list to the board. No later than 90 days after*
20 *the initial submission by the district and the Port of Oakland of*
21 *the revised list, the board, at a public hearing, shall approve the*
22 *revised project list submitted by the district and the Port of*
23 *Oakland. The board shall not change the revised list of projects*
24 *submitted by the district and the Port of Oakland. The board may*
25 *only accept or reject the entire list of projects. If the board has*
26 *not approved a revised list of projects by 90 days after the initial*
27 *submission by the district and the Port of Oakland, the most recent*
28 *revised list of projects submitted to the board by the district and*
29 *the Port of Oakland shall become the final list of projects.*

30 (e) The board may determine, at a public hearing, that the
31 emission reduction goals for 2020 have been met or exceeded and
32 that projects that reduce emissions from the movement of cargo
33 containers to and from the port and are designed to achieve federal
34 air quality standards have been implemented, and once the
35 determination is made, and ensuring that all approved projects
36 have been funded, ~~the board shall notify~~ *notice shall be given to*
37 *the Port of Oakland of this determination, and the Port of Oakland*
38 *shall no longer collect the one-half of the user fee for air quality*
39 *projects meant to reach these goals and federal air quality*
40 *attainment standards.*

~~(f) The board shall only use the funds received from the Port of Oakland Mitigation Fund to fund projects authorized pursuant to this section.~~

(f) The Port of Oakland shall use the Port of Oakland container cargo fee revenues to fund only projects authorized pursuant to this section and Section 1751.

(g) A project receiving funding pursuant to this section may also receive funding from other sources, including, but not limited to, local agencies, state sources, federal sources, and private sources.

1754. Notwithstanding any other provision of law, the Ports of Los Angeles, Long Beach, and Oakland are authorized to impose a user fee on cargo moving through the respective ports, with revenue proceeds to be used to construct and maintain infrastructure improvements and implement mitigation programs.

Article 4. Financing Provisions

1760. (a) Pursuant to the authority of the San Pedro Bay Ports, the San Pedro Bay Ports may enter into financing agreements with participating parties for the purpose of financing or refinancing San Pedro Bay Ports congestion relief projects and San Pedro Ports mitigation relief projects.

(b) As authorized, the San Pedro Bay Ports may issue bonds as San Pedro Bay Ports Congestion Relief Container Fee Revenue Bonds to finance or refinance San Pedro Bay Ports congestion relief projects and as San Pedro Bay Ports Mitigation Relief Container Fee Revenue Bonds to finance or refinance San Pedro Bay Ports mitigation relief projects.

(c) The principal of and interest and redemption premiums on San Pedro Bay Ports Congestion Relief Container Fee Revenue Bonds and San Pedro Bay Ports Mitigation Relief Container Fee Revenue Bonds shall be payable from, and secured by, San Pedro Bay Ports congestion relief container fee revenue and San Pedro Bay Ports mitigation relief container fee revenue, respectively, as and to the extent provided in the constituent instruments defining the rights of the holders of the bonds.

1761. (a) Pursuant to the procedures in the City of Oakland City Charter *and subject to any applicable pledges, liens, covenants, or obligations of the port's bonds, debt instruments,*

1 *indentures, or other indebtedness*, the Port of Oakland may enter
2 into financing agreements with participating parties for the purpose
3 of financing or refinancing Port of Oakland congestion relief
4 projects and Port of Oakland mitigation relief projects.

5 ~~(b) As authorized, the Port of Oakland may issue bonds as Port~~
6 ~~of Oakland Congestion Relief Container Fee Revenue Bonds to~~
7 ~~finance or refinance Port of Oakland congestion relief projects and~~
8 ~~as Port of Oakland Mitigation Relief Container Fee Revenue Bonds~~
9 ~~to finance or refinance Port of Oakland mitigation relief projects.~~

10 ~~(c) The principal of and interest and redemption premiums on~~
11 ~~Port of Oakland Congestion Relief Container Fee Revenue Bonds~~
12 ~~and Port of Oakland Mitigation Relief Container Fee Revenue~~
13 ~~Bonds shall be payable from, and secured by, Port of Oakland~~
14 ~~congestion relief container fee revenue and Port of Oakland~~
15 ~~mitigation relief container fee revenue, respectively, as and to the~~
16 ~~extent provided in the constituent instruments defining the rights~~
17 ~~of the holders of the bonds.~~

18 *(b) As authorized by the City of Oakland City Charter, the Port*
19 *of Oakland may issue bonds as the Port of Oakland container*
20 *cargo fee revenue bonds to finance or refinance Port of Oakland*
21 *congestion relief projects or the Port of Oakland mitigation relief*
22 *projects.*

23 *(c) The principal of and interest and redemption premiums on*
24 *the Port of Oakland container cargo fee revenue bonds shall be*
25 *payable from, and secured by, the Port of Oakland container cargo*
26 *fee revenue as, and to the extent, provided in the constituent*
27 *instruments defining the rights of the holders of the bonds.*

28 1762. The San Pedro Bay Ports may pledge all or any portion
29 of the San Pedro Bay Ports congestion relief container fees to
30 secure San Pedro Bay Ports Congestion Relief Container Fee
31 Revenue Bonds, and credit facilities for these bonds, and all or
32 any portion of the San Pedro Bay Ports Mitigation Relief Container
33 Fee Revenue Bonds, and credit facilities for these bonds. All San
34 Pedro Bay Ports congestion relief container fees and San Pedro
35 Bay Ports mitigation relief container fees so pledged shall be paid
36 to the indenture trustee for these bonds each month, from the San
37 Pedro Bay Ports Congestion Relief Trust Fund and the San Pedro
38 Bay Ports Mitigation Relief Trust Fund for so long as any of the
39 bonds are outstanding. Any San Pedro Bay Ports congestion relief
40 container fees and San Pedro Bay Ports mitigation relief container

1 fees that are not required to be retained by the indenture trustee
2 pursuant to the constituent instruments defining the rights of the
3 holders of the bonds shall be remitted by the indenture trustee to
4 the San Pedro Bay Ports Congestion Relief Trust Fund and the
5 San Pedro Bay Ports Mitigation Relief Trust Fund and shall be
6 disbursed at the request of the authority and the district,
7 respectively, for San Pedro Bay Ports congestion relief projects
8 and San Pedro Bay Ports mitigation relief projects.

9 ~~1763. The Port of Oakland may pledge all or any portion of~~
10 ~~the Port of Oakland congestion relief container fees to secure Port~~
11 ~~of Oakland Congestion Relief Container Fee Revenue Bonds, and~~
12 ~~credit facilities for these bonds, and all or any portion of the Port~~
13 ~~of Oakland Mitigation Relief Container Fee Revenue Bonds, and~~
14 ~~credit facilities for these bonds. All Port of Oakland congestion~~
15 ~~relief container fees and Port of Oakland mitigation relief container~~
16 ~~fees so pledged shall be paid to the indenture trustee for these~~
17 ~~bonds each month, from the Port of Oakland Congestion Relief~~
18 ~~Trust Fund and the Port of Oakland Mitigation Relief Trust Fund~~
19 ~~for so long as any of the bonds are outstanding. Any Port of~~
20 ~~Oakland congestion relief container fees and Port of Oakland~~
21 ~~mitigation relief container fees that are not required to be retained~~
22 ~~by the indenture trustee pursuant to the constituent instruments~~
23 ~~defining the rights of the holders of the bonds shall be remitted by~~
24 ~~the indenture trustee to the Port of Oakland Congestion Relief~~
25 ~~Trust Fund and the Port of Oakland Mitigation Relief Trust Fund~~
26 ~~and shall be disbursed at the request of the commission and the~~
27 ~~board, respectively, for Port of Oakland congestion relief projects~~
28 ~~and Port of Oakland mitigation relief projects.~~

29 *1763. Pursuant to the procedures in the City of Oakland City*
30 *Charter and subject to any applicable pledges, liens, covenants,*
31 *or obligations of the port's bonds, debt instruments, indentures,*
32 *or other indebtedness, the Port of Oakland may pledge all or any*
33 *portion of the Port of Oakland container cargo fees to secure Port*
34 *of Oakland container cargo fee revenue bonds, and credit facilities*
35 *for these bonds. All Port of Oakland container cargo fees so*
36 *pledged shall be paid to the indenture trustee for these bonds each*
37 *month for so long as any of the bonds are outstanding. Pursuant*
38 *to the procedures in the City of Oakland City Charter and subject*
39 *to any applicable pledges, liens, covenants, or obligations of the*
40 *port's bonds, debt instruments, indentures, or other indebtedness,*

1 *any Port of Oakland container cargo fees that are not required to*
2 *be retained by the indenture trustee pursuant to the constituent*
3 *instruments defining the rights of the holders of the bonds shall*
4 *be remitted by the indenture trustee and be disbursed at the request*
5 *of the Port of Oakland to pay for Port of Oakland congestion relief*
6 *projects and Port of Oakland mitigation relief projects.*

7 SEC. 3. Section 1760 of the Harbors and Navigation Code is
8 amended and renumbered to read:

9 1730. (a) For purposes of this section, “council” means the
10 California Marine and Intermodal Transportation System Advisory
11 Council, a regional subunit of the Marine Transportation System
12 National Advisory Council chartered by the federal Secretary of
13 Transportation under the Federal Advisory Council Act (P.L.
14 92-463).

15 (b) The council is requested to do all of the following:

16 (1) Meet, hold public hearings, and compile data on issues that
17 include, but need not be limited to, all of the following:

18 (A) The projected growth of each maritime port in the state.

19 (B) The costs and benefits of developing a coordinated state
20 program to obtain federal funding for maritime port growth,
21 security, and congestion relief.

22 (C) Impacts of maritime port growth on the state’s transportation
23 system.

24 (D) Air pollution caused by movement of goods through the
25 state’s maritime ports, and proposed methods of mitigating or
26 alleviating that pollution.

27 (E) Maritime port security, including, but not limited to, training,
28 readiness, certification of port personnel, exercise planning and
29 conduct, and critical marine transportation system infrastructure
30 protection.

31 (F) A statewide plan for continuing operation of maritime ports
32 in cooperation with the United States Coast Guard, the federal
33 Department of Homeland Security, the Office of Emergency
34 Services, the state Office of Homeland Security, and the California
35 National Guard, consistent with the state’s emergency management
36 system and the national emergency management system, in the
37 event of a major incident or disruption of port operations in one
38 or more of the state’s maritime ports.

39 (G) State marine transportation policy, legislation, and planning;
40 regional infrastructure project funding; competitiveness;

1 environmental impacts; port safety and security; and any other
2 matters affecting the marine transportation system of the United
3 States within, or affecting, the state.

4 (2) Identify all state agencies that are involved with the
5 development, planning, or coordination of maritime ports in the
6 state.

7 (3) Identify other states that have a statewide port master plan
8 and determine whether that plan has assisted those states in
9 improving their maritime ports.

10 (4) Compile all information obtained pursuant to paragraphs
11 (1) to (3), inclusive, and submit its findings in a report to the
12 Legislature not later than January 1, 2006. The report should
13 include, but need not be limited to, recommendations on methods
14 to better manage the growth of maritime ports and address the
15 environmental impacts of moving goods through those ports.

16 (c) The activities of the council pursuant to this section shall
17 not be funded with appropriations from the General Fund.

18 SEC. 4. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 a local agency or school district has the authority to levy service
21 charges, fees, or assessments sufficient to pay for the program or
22 level of service mandated by this act, within the meaning of Section
23 17556 of the Government Code.